

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ARCTIC CAT, INC.,
a Minnesota corporation,

Civil Action 13-cv-146

Plaintiff,

v.

SABERTOOTH MOTOR GROUP, LLC,
a Delaware limited liability company, and
SABERTOOTH MOTORCYCLES, LLC,
a Delaware limited liability company,

Defendants.

COMPLAINT AND JURY DEMAND

Arctic Cat, Inc. (“Arctic Cat”) for its Complaint against Defendants Sabertooth Motor Group, LLC and Sabertooth Motorcycles, LLC (collectively, “Sabertooth”) states and alleges as follows:

THE PARTIES

1. Arctic Cat is a Minnesota corporation having a principal place of business at 601 Brooks Avenue South, Thief River Falls, MN 56701. Arctic Cat designs, engineers, manufactures and markets snowmobiles, all-terrain vehicles (ATVs) and Side by Sides under the ARCTIC CAT brand name, as well as related parts, garments and accessories. Arctic Cat markets its products through a network of independent dealers located throughout the contiguous United States and Canada, and through distributors representing dealers in Alaska, Europe, the Middle East, Asia and other international

markets. The ARCTIC CAT brand name is among the most widely recognized and respected names in the snowmobile, ATV and Side by Side industry.

2. On information and belief, Sabertooth Motor Group, LLC is a Delaware limited liability company with its principal place of business located at 1040 Commerce Boulevard North, Sarasota, Florida, 34243.

3. On information and belief, Sabertooth Motorcycles, LLC is a Delaware limited liability company with its principal place of business located at 151 Bob Ledford Drive, Greer, South Carolina, 29651. On information and belief, Sabertooth Motorcycles, LLC is a wholly-owned subsidiary of Sabertooth Motor Group, LLC.

JURISDICTION AND VENUE

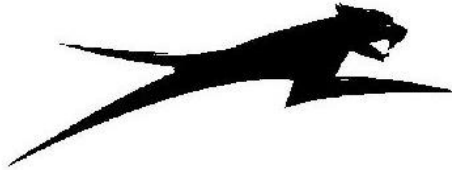
4. This is an action for a declaratory judgment and for trademark infringement, deceptive trade practices and unfair competition arising under the trademark laws of the United States, 15 U.S.C. § 1114 *et seq.*, 28, U.S.C. §§ 2201 and 2202, Minn. Stat. § 325D.44, and the common law.

5. The Court has jurisdiction under 28 U.S.C. § 1338 (a) and (b), and 1367. Venue is proper under 28 U.S.C. § 1391(b) and (c).


6. The Court has personal jurisdiction over Sabertooth because it regularly conducts business in the State of Minnesota; Sabertooth's website indicates that it manufactures products in the Minneapolis area.


ARCTIC CAT'S TRADEMARK RIGHTS

7. Arctic Cat owns the logo below (hereafter "Arctic Cat Logo"), which Arctic Cat uses prominently with power sports vehicles, equipment and related accessories.



8. Arctic Cat also owns many other cat-themed trademarks, including the following trademarks registered with the United States Patent and Trademark Office:

Mark	Reg. No.	Reg. Date	Goods/Services
ARCTIC CAT	0,865,633	March 4, 1969	Snowmobiles and parts
	2,293,113	Nov. 16, 1999	Four or six wheel all-terrain vehicles; motorized vehicles, namely, snowmobiles and parts, double or triple rider recreational jet boat, not including catamarans or catboats
ARCTIC CAT	2,178,018	Aug. 4, 1998	Snowmobiles and parts; four or six wheel all-terrain vehicles
BEARCAT	1,982,860	May 2, 1995	Motorized vehicles; namely snowmobiles and parts
THUNDERCAT	1,762,029	Mar. 30, 1993	Motorized vehicles; namely, snowmobiles and parts

Mark	Reg. No.	Reg. Date	Goods/Services
THUNDERCAT	3,915,903	Feb. 8, 2011	All-terrain vehicles and parts
FIRECAT	2,779,647	Nov. 4, 2003	Snowmobiles and parts
COUGAR	1,661,623	Oct. 22, 1991	Snowmobiles and parts
CATMASTER	1,828,332	Mar. 29, 1994	Educational services; namely, conducting seminars, workshops, and classes in the field of snowmobile repair and service
EL TIGRE	1,643,544	May 7, 1991	Snowmobiles and parts
	1,789,501	Aug. 24, 1993	Clothing; namely, shirts, sweatshirts, T-shirts, jackets, pants and underwear
PROWLER	1,548,214	July 18, 1989	Snowmobiles and parts
LYNX	1,097,348	July 25, 1978	Snowmobiles and parts
CHEETAH	1,010,674	May 13, 1975	Snowmobiles and parts
PANTHER	0,890,813	May 12, 1970	Snowmobiles and parts
JAG	1,166,432	Aug. 25, 1981	Snowmobiles and parts
TIGERSHARK	1,742,252	Dec. 22, 1992	Single or double rider recreational jet boat

9. Arctic Cat has been using cat-themed marks with power sport vehicles since at least 1962, and has been using the Arctic Cat Logo since 2006. Arctic Cat began using the Arctic Cat Logo with ATVs in 2007 and has used the Arctic Cat Logo with Arctic Cat ATVS continuously since that time.

10. Arctic Cat has continuously and prominently used one or more cat-themed marks with all ATVs and Side by Sides manufactured and sold by Arctic Cat.

11. Because of its long-standing use of the ARCTIC CAT trademark, the Arctic Cat Logo, and other cat-themed trademarks, and the substantial investment Arctic Cat has made in its trademarks, people in the power sport vehicle industry associate the Arctic Cat Logo and other cat-themed trademarks with Arctic Cat.

INFRINGEMENT BY SABERTOOTH

12. Until recently, Sabertooth has been in the motorcycle business. Sabertooth recently began advertising an ATV on its website, depicted below.



13. Sabertooth is promoting the ATV under the trademark MOUNTAIN LION with a logo that features a cat that resembles the head of the cat in the Arctic Cat Logo (hereafter, “MOUNTAIN LION Mark and Logo”). The below image shows close-up

excerpts of the head of the Arctic Cat Logo on the left, and the MOUNTAIN LION Logo on the right.



14. On information and belief, the ATV Sabertooth is advertising and selling displays only the MOUNTAIN LION Mark and Logo, and does not display the SABERTOOTH trademark.

15. Sabertooth is improperly using the registered trademark symbol with the MOUNTAIN LION Mark and Logo even though the trademark is not registered with the United States Patent and Trademark Office.

16. Arctic Cat used the Arctic Cat Logo and other cat themed logos with ATVs, Side by Sides and other power sport vehicles long before Sabertooth began using the MOUNTAIN LION Mark and Logo.

17. Sabertooth's use of the MOUNTAIN LION Mark and Logo is likely to cause confusion concerning the source, sponsorship or affiliation between Arctic Cat and Sabertooth.

18. Sabertooth's use of the MOUNTAIN LION Mark and Logo is without consent, permission or license by Arctic Cat.

19. Arctic Cat has been damaged by Sabertooth's actions in an amount to be proven at trial.

SABERTOOTH'S INFRINGEMENT ALLEGATIONS

20. On information and belief, Sabertooth is the owner of United States Trademark Registrations for the trademarks WILDCAT, SABERTOOTH MIDNIGHT WILDCAT, WILDCAT X, WILDCAT 427, AND WILDCAT 427X for use with "motorcycles."

21. As recently as January 14, 2013, Sabertooth has alleged that Arctic Cat's use of the trademarks WILDCAT, WILDCAT 4, and WILDCAT X with Side by Side vehicles infringes Sabertooth's trademark rights.

22. Arctic Cat denies that its use of the trademarks WILDCAT, WILDCAT 4, WILDCAT 650, WILDCAT 1000, and WILDCAT X (hereafter "WILDCAT Marks") with Side by Side vehicles infringes Sabertooth's trademarks. Arctic Cat makes prominent use of the ARCTIC CAT trademark and the Arctic Cat Logo with the WILDCAT Marks.

23. Arctic Cat is aware of no occasion where a customer of Arctic Cat or Sabertooth has been confused by Arctic Cat's use of the WILDCAT Marks. Although Sabertooth claims that actual confusion has occurred, Sabertooth appears to have manufactured that evidence in attempt to support its unfounded allegations.

24. Arctic Cat has a long history of using the WILDCAT trademark, and used that mark in conjunction with Arctic Cat's "Wildcat" model snowmobiles, at least as early as the 1980's. In February 2011, Arctic Cat began using the WILDCAT trademark

with Side by Side vehicles, and Arctic Cat later expanded its use of the WILDCAT trademark to include WILDCAT 4, WILDCAT 650, WILDCAT 1000, and WILDCAT X. Sabertooth has presented no credible evidence of actual confusion in the nearly two years Arctic Cat has been using the WILDCAT Marks with Side by Side vehicles.

25. The foregoing allegations are incorporated in the claims below.

COUNT I
Trademark Infringement Under the Lanham Act

26. Sabertooth's unauthorized use of the MOUNTAIN LION Mark and Logo is likely to cause confusion as to the affiliation, connection, or association between Sabertooth and Arctic Cat.

27. Sabertooth's actions also misrepresent the origin of its goods and services because customers are likely to think that Sabertooth's goods and services originate with Arctic Cat or are somehow provided through Arctic Cat.

28. Sabertooth's use of the MOUNTAIN LION Mark and Logo infringes Arctic Cat's trademark rights under the Lanham Act.

29. Sabertooth acted deliberately and willfully in attempt to trade upon the goodwill associated with the Arctic Cat Logo and Arctic Cat's other cat-themed trademarks.

30. Sabertooth's conduct is causing, and will continue to cause, irreparable harm to Arctic Cat unless it is enjoined by this Court.

31. Arctic Cat has suffered damages as a result of Sabertooth's actions in an amount to be proven at trial.

COUNT II
Violation of Minnesota Uniform Deceptive Trade Practices Act

32. Sabertooth's use of the MOUNTAIN LION Mark and Logo is likely to cause confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services.

33. Sabertooth's conduct is also likely to cause confusion or misunderstanding as to any affiliation, connection, or association between Arctic Cat and Sabertooth.

34. Sabertooth's actions violate Minn. Stat. § 325D.44.

35. Sabertooth has willfully engaged in the above-described trade practices, knowing them to be deceptive.

36. As a result of Sabertooth's conduct, Arctic Cat is entitled to an injunction and attorneys' fees under Minn. Stat. § 325D.45.

COUNT III
Unfair Competition

37. Sabertooth's actions constitute unfair competition.

38. Arctic Cat has been damaged as a result of the defendant's unfair competition in an amount to be proven at trial.

COUNT IV
Declaratory Judgment

39. An actual case and controversy exists concerning Arctic Cat's use of the WILDCAT Marks with Side by Side vehicles.

40. Sabertooth has alleged that Arctic Cat's use of the WILDCAT, WILDCAT 4 and WILDCAT X trademarks with Side by Side vehicles infringes Sabertooth's alleged trademark rights.

41. Arctic Cat disputes that there is any infringement. Arctic Cat has been using the WILDCAT Marks with Side by Side vehicles since 2011 without a single instance of confusion between Arctic Cat and Sabertooth.

42. This Court has jurisdiction over the dispute and the claim is ripe for adjudication.

43. Accordingly, Arctic Cat seeks a declaration of this Court that it is lawfully using the WILDCAT Marks with Side by Side vehicles, and does not infringe Sabertooth's rights under federal or state law.

JURY DEMAND

44. Arctic Cat demands a jury trial for all issues triable to a jury.

WHEREFORE, Arctic Cat asks the Court to:

1. Enter judgment against the defendants in favor of Arctic Cat, in an amount to be determined at trial;
2. Preliminarily and permanently enjoin Sabertooth from using the MOUNTAIN LION Mark and Logo;
3. Declare that Arctic Cat's use of the WILDCAT Marks with Side by Side vehicles does not and would not infringe any rights Sabertooth has under state or federal law;
4. Award Arctic Cat the costs and attorneys' fees incurred in this action; and
5. Grant any other relief the Court deems just and equitable.

DATED: January 16, 2013

s/ Lora M. Friedemann

Lora M. Friedemann (#259615)
Laura Myers (#387116)
FREDRIKSON & BYRON, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, Minnesota 55402-1425
(612) 492-7000 (tel.)
(612) 492-7077 (fax)

Attorneys for Arctic Cat, Inc.

5306451.doc